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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,543	03/30/2001	Basuki Afandi Sugiarto	M-10973 US	7668
27774	7590	10/06/2004	EXAMINER	
MAYER, FORTKORT & WILLIAMS, PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090			JUNTIMA, NITTAYA	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/822,543	Applicant(s) SUGIARTO, BASUKI AFANDI	
	Examiner Nittaya Juntima	Art Unit 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters:

A. Claims 1, 5, 13, 15-16, 18, and 21 are objected to because of the following informalities:

- In claims 1, 15, 16, and 21, “is configured to” and “being configured to” should be changed, i.e. “the base station being configured to transmit and receive” at line 4 of claim 1 should be changed to “the base station transmits and receives” to make the limitations positive. An alternative to the suggested change would be a written confirmation stating that the claimed element, i.e. a router or a tunnel switch, performs the actual function following “is configured to” and “being configured to.” It has been held that the recitation that an element “is configured to” or “being configured to” perform a function is *not* a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

- Claims 5 and 18, the limitation “the first ISP” and “the second ISP” in lines 2 and 3 of the claims should be changed to avoid a lack of antecedent basis.

- Claim 13, the limitation “wherein the communication paths are *wireless*” in line 1 of should be changed since it contradicts to the “*wired* communication paths” recited in claim 1, ll 9-10, from which claim 13 depends.

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Art Unit: 2663

2. Claims 1-22 are allowed. The prior art alone or in combination fail to teach or make obvious on the following when considered in combination with other limitations in the claim: the tunnel switch/the tunnel switching means routes signals between the router/the routing means and first and second Internet service providers via communication paths and the router/the routing means imposes a first pre-determined signal bandwidth limit between the modems and the first Internet service provider, and a second pre-determined signal bandwidth limit between the modems and the second Internet service provider as recited in claims 1, 17, 21, and 22, and the tunnel switch routes signals between the router and first and second Internet service providers via wired communication paths and the tunnel switch imposes a first pre-determined signal bandwidth limit between the modems and the first Internet service provider, and a second pre-determined signal bandwidth limit between the modems and the second Internet service provider as recited in claim 16.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- USPN 6,603,758, disclosing connecting modem to the Internet via a selected ISP in Fig. 1;
- USPN 6,765,881, disclosing L2TP tunnels between ISPs via IP network in Fig. 2;
- USPN 6,463,475, disclosing providing switched tunnel connections using a tunnel switch;
- USPN 6,338,087, disclosing wireless terminals connecting to the Internet via a base station and router in Fig. 1;

Art Unit: 2663

- USPN 6,522,627, disclosing Fig. 1 with tunnels defined for engineering layer which is used to divide up capacity in the physical network;
- USPN 6,189,035, disclosing rejecting data packets when the number of the packets received exceed a threshold (Abstract and Fig. 4);
- USPN 6,512,754, disclosing wireless modems connecting the ISP (Fig. 2); and
- USPN 6,496,491, disclosing wireless tunneling protocol, L2TP, with ISP and NAS (Fig. 8).


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nittaya Juntima
September 29, 2004




CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600